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October 20, 2009

BY ELECTRONIC FILING and FEDEX

Hon. Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

*Noted
The court
will consider
any papers filed*

Re: Soil Solutions, Inc. v. Soilsolution Industries, Inc., et al.
Index No.: 09 CV 2470 (JBW) (RML)

Dear Judge Weinstein:

We represent the plaintiff Soil Solutions, Inc. ("Soil Solutions") in the above-captioned action, in which motions by Soil Solutions for a preliminary injunction, and by Defendants to dismiss and for summary judgment, both returnable November 6, 2009, are pending. Today at approximately 1:20am Defendants Soilsolution Industries, Inc. and Gregory DiCapua ("Defendants") filed an unauthorized sur-reply memorandum (denominated a "Reply Memorandum") in further opposition to Soil Solutions' preliminary injunction motion. We respectfully request that this filing be stricken and not considered.

Soil Solutions' preliminary injunction motion was filed on September 25, 2009. Defendants' opposition papers were due on October 9, 2009 but were filed on October 7, 2009, in conjunction with Defendants' motion to dismiss or for summary judgment. Soil Solutions timely filed its reply papers on October 16, 2009. Defendants' further filing today of a sur-reply mislabeled a "reply" is unauthorized and we submit should be stricken.

Soil Solutions' papers in opposition to Defendants' motion to dismiss or for summary judgment have not yet been submitted. They are due on October 21, 2009 and will be timely filed. Defendants' "reply memorandum" cannot, therefore, have been intended to relate to their own motion. Accordingly, we respectfully request that Defendants' unauthorized "reply

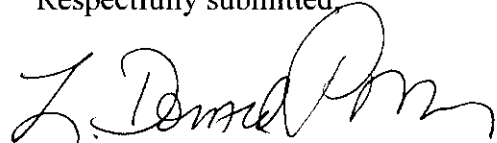
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memorandum” be stricken. If the Court chooses to consider it, we request an opportunity to respond.

Respectfully submitted

A handwritten signature in black ink, appearing to read "L. Donald Prutzman", written in a cursive style.

L. Donald Prutzman

cc: Christopher Cardillo, Esq., Defendants' Counsel (via ECF and FedEx)